IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jayendu Patel et. al   Art Unit   : 3623
Serial No. : 10/643,439   Examiner : Beth V. Boswell
Filed   : August 19, 2003   Conf. No. : 4428
Title   : Statistical Personalized Recommendation System

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to United States Patent and Trademark Office Pre-Appeal Brief Conference Program, a request for a review of identified matters on appeal is hereby submitted with a Notice of Appeal. Review of these identified matters by a panel of examiners is requested because the rejections of record are clearly not proper and are without basis, in view of a clear legal and/or factual deficiency in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

Claims 1-18, 20-26, 31-48, 50, 52-60, 72-79, 88, 90, and 91 are pending, of which claims 1 and 88 are independent. In the Advisory Action mailed on Aug 5, 2008, claims 1-5, 7-11, 13, 14, 16, 20-23, 31, 32, 34, 36-38, 40-48, 50, 52-56, 59-60, 72-79, and 88 remain rejected under 35 U.S.C. § 102(b) as being anticipated by Chislenko et al. (US 6,041,311). More specifically, the Examiner has maintained her position that Chislenko discloses "computing parameters characterizing predicted ratings of items by a typical non-specific user of the group" as recited in previously-presented claim 1.

On page 2 of the Advisory Action, the Examiner stated:

> Chislenko discloses that a user is associated with a similar group of users based on history information/profile information stored. **[A]**Based on the group, clustering and similarity factors are computed **along with** a parameter that is computed (an average rating) which is calculated for a theoretical average user of the group using the ratings by members of the overall group. **[B]This calculation** is not performed using the information of a specific user, but rather the rest of the group and then is used to

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calculate an expected rating by any member of the group, as is required by the third limitation of the claim (using the group parameter and the predicted rating calculated for an average theoretical user to compute a personalized parameter associated with a specific user – ie his or her predicted rating). See figure 1 (step 102), column 2, lines 20-30, column 5, lines 29-45 and line 65-column 6, line 15 and lines 57-67, column 8, lines 1-7, column 9, lines 1-11. [annotated by the Applicant.]

Notwithstanding the Examiner's assertions, Chislensko simply does not disclose or suggest calculating "an average rating ... for a theoretical average user of the group using the ratings by members of the overall group" and then using that average rating "to calculate an expected rating by any member of the group." The Applicant has carefully reviewed the cited portions of the reference, and the reference as a whole, and finds absolutely no support for either of the calculations that are allegedly disclosed.

Furthermore, the bolded-text in annotated part A of the above-quoted paragraph (i.e., "along with") makes clear that the Examiner finds in Chislenko "clustering and similarity factors" that are separate and distinct from an "average rating" that is calculated for a theoretical average user of a group using the ratings by members of the group. The Applicant's understanding in previous Office Actions has been that the Examiner takes the position that computing the clustering and similarity factors anticipates the step of "computing parameters characterizing predicted ratings of items by a typical non-specific user of the group" as recited in previously-presented claim 1. Nevertheless, the arguments presented below are applicable to both cases.

The Applicant does not dispute certain of the Examiner's positions. For example, the Applicant does not dispute the Examiner's position that the Chislenko reference teaches computing "clustering and similarity factors" and points to pages 16 and 17 of the previously-filed Reply to the Final Office Action, in which the Applicant describes in detail the manner in which the Chislenko system uses "clustering and similarity factors" to identify a particular user's neighboring users.

The Applicant further does not dispute the Examiner's position that some of the computations performed by the Chislenko system are based on the ratings given to one or more items by members of a group of which a particular user is a member.

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The Applicant however respectfully submits that absolutely no computation performed by Chislenko system uses the ratings by members of a group to obtain an average rating for a theoretical average user of the group as the Examiner contends. Indeed, the expressions "average user," "theoretical user," "theoretical average user," and "average theoretical user" do not even occur in the reference. The Applicant's review of every instance of computing an "average rating" over a set of users confirms that in every case, the set of users consists of a particular "user's neighboring users," whose ratings are used for computing a predicted rating for the particular user rather than an average rating for a theoretical average user as the Examiner contends. Further, in no instance does the Chislenko reference teach "computing parameters characterizing predicted ratings of items by a typical non-specific user of the group" as recited in claim 1.

The only instance in which the Chislenko reference hints at a "theoretical average user" is in col. 12, lines 1-41, in which Chislenko describes an embodiment of the Chislenko system that uses user profiles and optionally item profiles to determine an "ideal user profile for a hypothetical user" that would be receptive to being a target of a communication that includes a particular item. Even with respect to this embodiment, Chislenko does not disclose computing an average rating for a theoretical average user of a group using the ratings by members of the group as suggested by the Examiner with respect to the "This calculation" portion of annotated part B of the above-quoted paragraph. At most, Chislenko teaches repeatedly using the ratings provided by sets of users to refine the characteristics of the ideal user profile for a hypothetical user to which the communication is targeted, and using the characteristics of the ideal user profile to identify users of the system to which the communication is presented.

The Examiner has not identified any specific part of the Chislenko reference the Examiner finds the alleged teaching of an "average rating for a theoretical average user of the group" nor is it clear to the Applicant where in the Chislenko reference the Examiner finds use of such an average rating in the computation of a predicted rating for a specific user. Indeed, it is not at all clear what "this computation" refers to in the Advisory Action.
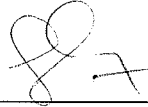
In Chislenko, the only procedure associated with the prediction of ratings based on the ratings given by members of a group is for the particular user that defines the group (i.e., User M), and not "a typical non-specific user of the group," as required in previously-presented claim 1. Chislenko does not disclose any approach to characterize predicted ratings of a typical non-specific user of any group, and more particularly does not disclose "computing parameters characterizing predicted ratings of items by a typical non-specific user of the group." The similarity and clustering factors and any rating given to an item by a member of User M's group is used to predict ratings for User M alone, and not used to predict ratings to any other member of User M's group.

For at least these reasons, claim 1 and its dependents are allowable over Chislenko. The forgoing remarks also apply to independent claim 88 and its dependents, each of which has corresponding limitations.

Respectfully submitted,

Date: 8|13|08

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